

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

TERRELL ELEBY,

Plaintiff,

v.

ORDER  
02-CV-636

R.E. SIMMONS, et al.,

Defendants.

---

This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1), on January 10, 2003. On January 14, 2005, defendants filed a renewed motion for summary judgment. On April 11, 2005, Magistrate Judge Scott filed a Report and Recommendation, recommending that defendants' motion be granted.

Plaintiff filed objections to the Report and Recommendation on June 1, 2005. Defendants filed a response to the objections on June 21, 2005.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument

from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendants' motion for summary judgment is granted. The Clerk of Court is directed to take all steps necessary to close the case.

IT IS SO ORDERED.

/s/ Richard J. Arcara

---

Hon. Richard J. Arcara  
Chief Judge  
United States District Court

Dated: June 24 , 2005